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10/611,617	06/30/2003	Bryan Y. Roe	042390.P15965	1380
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EXAMINER				
VO, TED T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/611,617

**Applicant(s)**

ROE ET AL.

**Examiner**

TED T. VO

**Art Unit**

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,9-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 2/15/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 02/15/2008.  
Claims 1, 3-7, 9-13, 15-18 are pending in the application.

### ***Response to Arguments***

2. This is in response to the argument remarks filed on 02/15/08.

Regarding the argument to the objection of the specification: It should be noted that the specification application should be complied with the requirements set forth in the MPEP. The Applicants' remarks argued the objection to the specification by comparing to an arrangement in an old patent is improper.

Regarding the argument to the rejection under 112 second paragraph: Examiner disagrees that the specification provides clear for "without utilizing control stack". This limitation has no connection to other functional limitations in the claim as a whole. Based on the statement, "without utilizing control stack", it appears the specification admitted that prior arts, public uses, and products have done the same as of the specification, but they utilized "control stack" when generating source code for UPnP devices. In view of the Applicants' addressing in the specification to portion [0004], it is the portion in the background. Clearly, this admitted prior art teaching. In view of the Applicants' addressing in the specification to portion [0019], clearly, Applicants admitted that prior arts had done the method of the claims. In fact, the specification admitted a vendor had built the source code for devices compliant to UPnP

specification. The passage of [0019] has inadequate information for how the specification to generate tailored code without utilizing control point. The passage merely addresses that both the application and vendors are building “control point”, each is built with its own tool. The ith specification also does not have inadequate information for how the specification to generate tailored code without utilizing control point. The passage merely addresses that the Vendor device builder using a “control point generator” to generate a control point, and the application uses its device to generate a control point. Thus, there is no patentable difference.

Regarding the argument to the rejection as not being unpatentable over Microsoft, in view of UPnP™ Forum and in further view of Aho:

The amendment is clearly only added “compiling the source code to generate control point” to each of independent claims. It should be noted that every source code generated by a programmer requires compiling. Without compiling, no source code can be executed by a processor.

It should be noted that the specification does not disclose its purpose, it does not know what the claimed subject matter presenting in the specification is. The present claims’ method and apparatus appear as for a user to access to a device builder to generate code compliant to the UPnP™ specification. Thus, its device builder is only adapted to a requirement provided by UPnP. There is no specific patentability is discussed, but solely generating a control point for a device. It should be noted that if control point specified by UPnP is executable code then it must be compiled from a high level source code. Aho’s compilation principle discloses this. Therefore, claiming accessing or generating code fail to address novel method but only complying with the functionality set forth by UPnP for generating a control point of a device.

***Information Disclosure Statement***

3. The contents of information disclosure statement filed 02/15/2008 which are lined through fail to comply with the provisions of 37 CFR 1.98(a)(2) (iii). These IDS appears citing about the US pending applications but it does not submit legal copies of the cited information:

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion.

The copies submitted in the IDS show that they are only office actions of Examiners.

It should be noted that the information for contents of an office action cannot be listed in a printing patent. The contents which are the internal office actions replying by patent Examiners should not be listed in a printing patent. In accordance to 37 CFR 1.98 (a) (2) (ii) or (iv), the considered portions will be listed:

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;  
(iv) All other information or that portion which caused it to be listed.

Thus, information for contents submitted under 37 CFR 1.98 when being initialed will cause to be listed in a printing patent. An office action cannot be the portion which is caused to be listed. Therefore, pursuant to 37 CFR 1.98, Applicants should submit the contents as U.S. patents, U.S. patent application publications, and/or pending unpublished U.S. applications in accordance to 37 CFR 1.98(a)(2) (iii).

*Specification*

4. Pursuant to 37 CFR 1.77, the content of Specification includes: Brief Summary of the Invention:

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(A) As provided by 37 CFR 1.73, a brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed.

(B) As provided in 37 CFR 1.77(b), the specification of a utility application should include the content of Specification with section headings in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows a section heading, the phrase "Not Applicable" should follow the section heading.

Since the specification does not indicate its nature and substance, which may include a statement of the object of the invention, it must comply with 37 CFR 1.77(b). The specification should be amended with this section heading "Brief Summary of the Invention" and indicated with "Not Applicable" following the section heading.

Accordingly, this specification is object to until it is amended as indicated.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7, 9-12 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. "Storage medium" is not included in the specification. This limitation is critical or essential to the practice of the invention, but not included in the specification to support the claims.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-7, 9-13, 15-18 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that the specification fails to point out clearly what it regards in the invention.

Per Claims 1, 3-7, 9-13, 15-18: Claims recite *generating custom source, tailored to the device, without utilizing a control point stack, to sufficiently implement the control point on the*

*device based on at least one of the device-specific information and the platform information.* As noted that the specification fails to point out the scope of the invention, while claims as a method comprising, “...” included with this recitation. However, in order to function “without utilizing a control point stack”, the claim fails to show inter-steps in its steps for how it can perform or can be performed “without”. The claims merely preempt for covering everything. Thus, it is unknown the boundary of generation step, and how it could be achieved without using a control point stack.

Because of with or without does not cause any change or effect to the claim as a whole, the claimed functionality is seen and interpreted as “*generating custom source code*”.

Per Claim 16: Dependency in Claim 16 is improper. It is dependent on a canceled claim.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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8. Claims 1, 3-7, 9-13, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft Corporation, "Hosting Devices on Windows XP Using Universal Plug and Play", 5-2002, in view of UPnP™ Forum, "Universal Plug and Play Device Architecture", version 1.0, June 2000 (pp: 1-46), and further in view of Aho et al, "Compilers Principles, Techniques, and Tools", 1998.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: Microsoft discloses,

*A method, comprising:*

*accessing at least one of device-specific and/or platform information for a device that will implement a peer-to-peer network connectivity control point* (See p.1 (Control point API), see p. 2 "Device Host API");

*generating custom source code* (COM objects, compliant UPnP derives, or device object), *tailored to the device, without utilizing a control point stack, to efficiently implement the control point on the device based on at least one of the device-specific information and the platform information*

(See P. 1, "Introduction". See p. 2, "Implementing the service and Device Control Objects", referring to COM objects, compliant UPnP derives, or device object (Figure in p.4) = *source code*. See p. 2, last three paragraphs: device code. Also it is noted for the limitation "without": See *Upsher-Smith Labs. v. PamLab, LLC*, 412 F.3d 1319, 1323, 75 USPQ2d 1213,

1215 (Fed. Cir. 2005) (claimed composition that expressly excluded an ingredient held anticipated by reference composition that optionally included that same ingredient)); Microsoft discloses vendors (including Microsoft) that provide tailored code of devices as generating control point (See page 1, third paragraph, “building a compliant UPnP device”, see p. 2, second paragraph, in section heading, Implementing the service and Device Control Objects: refer to COM object. Page 2 also discloses UPnP devices require XML).

Microsoft does not explicitly address the features that are underscored as of: ***tailored to the device without utilizing a control point stack, to efficiently implement the control point on the device based on at least one of the device-specific information and the platform information***

The UPnP™ Forum, discloses a standard device platform information, where it discloses by showing a vendor who can build the device separately (See p. 1: What is UPnP?: fourth paragraph:” UPnP devices can be implemented using any programming language, and on any operating system. UPnP does not specify or constrain the design of an API for applications running on control points; OS vendors may create APIs that suit their customer's needs. UPnP enables vendor control over device UI and interaction using the browser as well as conventional application programmatic control.”.

As admitted by the specification, browser code will allow generating control point without utilizing control stack.

Therefore, it is obvious to ordinary in the art that the implicit feature not addressed in the Microsoft reference can be included as it addressed in UPnP™ Forum for building control point

without using control stack and using the UPnP specification that allows using any programming language for building a compliant UPnP device based on the device-specific information and the platform information, where the combination is conforming to the requirement of UPnP.

Both Microsoft and UPnP do not address “compiling” the code (COM Object) for limitation, *compiling the source code to generate the control point*.

However, Aho shows that all source code has to compile because a processor recognizes only machine code. It is easily to recognize the Aho’s teaching as its title.

Therefore, it would be obvious to the ordinary in the art to include the teaching “compiling” to the code that generates for control point in the Microsoft, and/or the program language allowed by UPnP specification because compiling is a requirement for generating executable code.

As per Claim 3: Microsoft further discloses, *The method according to claim 1 wherein accessing the device-specific information further comprises accessing at least one of a device description and a service description for the device* (See Microsoft Windows XP includes UPnP (*platform information*) through a Control point API, p. 1).

As per claim 4: Incorporated to Claim 1, Microsoft further discloses, *The method according to claim 1 wherein accessing the device-specific information further comprises receiving device-specific information from a programmer*. See p. 2, using Device Host API and using UTL.

As per claim 5: Incorporated to Claim 1, Microsoft further discloses, *The method according to claim 1 wherein generating the source code further comprises enhancing the source code for the control point*. Refer to COM Object.

As per claim 6: Incorporated to Claim 1, As suggested by Microsoft that UPnP allows XML as part of control point, where XML can be used to create a description of a device. Furthermore, COM object is associated with XML as XML device (See p. 2) for disclosing:

*The method according to Claim 5 wherein enhancing the source code further comprises creating a custom eXtensible Markup Language (XML) parser.*

As per Claim 7: The claim is storage medium that has the limitations address corresponding the functionality of the method Claim 1. See rationale addressed in Claim 1.

As per Claim 9: See rationale addressed in Claim 3.

As per Claim 10: Claimed functionality is corresponding to claim 4. See rationale addressed in the rejection of Claim 4 above.

As per Claim 11: Claimed functionality is corresponding to claim 5. See rationale addressed in the rejection of Claim 5 above.

As per Claim 12: Claimed functionality is corresponding to claim 6. See rationale addressed in the rejection of Claim 6 above.

As per Claim 13: The claim is an apparatus that has the limitations address corresponding the functionality of the method Claim 1. See rationale addressed in Claim 1.

As per Claim 15: See rationale addressed in Claim 3.

As per Claim 16: Claimed functionality is corresponding to claim 6. See rationale addressed in the rejection of Claim 6 above.

As per Claim 17: Claimed functionality is corresponding to claim 4. See rationale addressed in the rejection of Claim 4 above.

As per Claim 18: See the PC that implements Control Point API (i.e. memory).

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV  
June 05, 2008

/Ted T. Vo/  
Primary Examiner, Art Unit 2191